

September 17, 1992
REPORT TO THE COMMITTEE
ON TRANSPORTATION, PLANNING AND THE ENVIRONMENT

CODE ENFORCEMENT UPDATE - REVISIONS AND REORGANIZATION TO THE
MUNICIPAL CODE

At this Committee's meeting of February 26, 1992, my office together with the City Manager, presented its initial plan to streamline the administrative procedures and hearings for various code enforcement remedies primarily found in Chapter One of the Municipal Code. This Committee approved this preliminary plan and directed the City Attorney's office to return in approximately six months with a draft ordinance. (Please refer to City Manager's Reports No. 92-74 and 92-66 both dated February 20, 1992; a copy of our report to this Committee dated February 21, 1992 is attached for your convenience as Attachment A.)

Since February, staff from my Code Enforcement Unit (CEU) thoroughly reviewed all of the administrative remedies used in the context of code enforcement--including abatement and revocation procedures and remedies found outside of Chapter One. These remedies and their hearing procedures were reorganized in Chapter One and a draft outline was submitted to the appropriate supervisorial personnel in the respective City-wide enforcement divisions and the Manager's Code Coordinator on July 6, 1992. The most recent draft of Chapter One is attached for your reference as Attachment B--Project Code Enforcement. This latest draft is based on input from the various enforcement divisions and a review of the administrative hearing procedures used by various state and local agencies. Included also in Attachment B are references to abatement procedures widely used in code enforcement which need to be amended immediately to be consistent with the new abatement procedures established in Chapter One. These sections relate to the abatement of: 1) litter in the public right of way; 2) vacant and unsecured structures; 3) structurally unsafe--dangerous buildings or structures; 4) substandard residential structures; and 5) zoning violation

abatement program.

Based on this effort, we recommend that this project continue in two related phases as outlined below:

"Project Code Enforcement"

Project Code Enforcement will focus upon the remedies found in Chapter One of the Municipal Code which are primarily used in the code enforcement arena. Nearly all of the materials before you today are part of this first phase. This effort coincides with the emphasis that this Council and the City Manager have placed upon code enforcement by the creation of the new Neighborhood Code Compliance Department. Depending upon the date of this Committee's formal approval of Phase One, it is our goal to have these new ordinances in place for use by the new department in January, 1993!

A key ingredient to the first phase is the adoption of formal administrative hearing procedures. Over the past five years the City has enacted five new administrative remedies, each with its own hearings and appeals procedures. The City Manager has also enacted informal hearing procedures to guide the implementation of these code enforcement remedies. As part of this first phase, the City Attorney would recommend the adoption of more detailed and formal hearing procedures. A draft of these new and improved hearing procedures is attached for your review as Attachment C. These procedures are intended to supplement the hearing procedures codified in Chapter One of the Municipal Code. Adoption of these new formal hearing procedures should afford the City greater protection from possible lawsuits which allege the denial of due process under section 1983 of the United States Code. At this juncture, the City Manager would merely have to adopt these formal hearing procedures as part of his Administrative Regulations and Policies. Formal Council adoption via resolution would not be required.

"Project Consistency"

Project Consistency involves a rather long and tedious review of other sections of the Municipal Code that are only peripherally related to code enforcement. The Municipal Code contains over 60 provisions that use some type of administrative abatement procedures. For example, San Diego Municipal Code section 44.0407 outlines procedures for the abatement of bees; section 43.0202 outlines abatement procedures for hazardous wells while sections 44.0304 and 44.0355 outline abatement procedures for rats and mosquitos. Although these remedies are rarely used, their procedures will soon be inconsistent with the new uniform abatement procedures developed as part of the first phase of this plan. The same is true for revocation procedures outlined in the

Municipal Code. Sections relating to procedures for the revocation of fire, building and zoning permits need to be streamlined for consistency and uniformity.

The approach with this second phase is basically the same as Project Code Enforcement. The old procedures would be deleted and the amended ordinances would make reference to the new uniform procedures found in Chapter One. Unfortunately, this second phase will take approximately three additional months after the first phase is enacted by the entire Council. Thus, our target date for finishing this second phase would be March, 1993. If this Committee wishes to expedite this second phase, it could approve this second phase in concept and direct us to send the second phase directly to Council. (A more detailed outline of Project Consistency is attached for your information as Attachment D.)

As explained to this Committee last February, our primary objective is to evaluate all code enforcement provisions from a comprehensive view point. This effort should clarify ambiguities, avoid repetition and promote uniformity and clarity. Our effort to date has so far achieved this primary goal.

Respectfully submitted,
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City Attorney

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